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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,470	04/22/2004	Wing Hok Ng	WEN 199	6412
23995	7590	04/20/2005	EXAMINER	
RABIN & Berdo, PC 1101 14TH STREET, NW SUITE 500 WASHINGTON, DC 20005			HARVEY, JAMES R	
			ART UNIT	PAPER NUMBER
			2833	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/829,470

Applicant(s)

NG ET AL.

Examiner

James R. Harvey

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-22-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

- The Information Disclosure statement(s) and related documents that were filed on 4-22-04 have been considered.

Priority

- Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

- The drawings are objected to because the cross-hatching is improper. See MPEP 608.02. For example, portions of the drawings in section and made of an insulated material must be crosshatched with alternating thick and thin lines, not with just thin lines.

Claim Objections

-- In reference to Claim(s) 1-7, it (they) is (are) objected to because the claims, specification, and abstract are replete with instances of poor grammar and terminology that are apparently due to translation errors. The words and associated grammar are considered essential in disclosing and protecting the meets and bounds of applicant's invention. The entire application should be reviewed and corrected to comply with standard USPTO practice.

Some examples are as follows:

- In reference to Claim(s) 1, the recitation "the clamp sheath" lacks proper antecedent basis.
- In reference to Claim(s) 1, the recitation "the said" on line 2 is redundant.
- In reference to Claim(s) 2, the recitation "of finger's impression" should be of a finger's impression.

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-- In reference to Claim(s) 3, the recitation "the clamp pivot" lacks proper antecedent basis.

-- In reference to Claim(s) 5 and 7, the recitation "the said" is redundant.

An examination based on the merits of claims 1-7, as best understood, is addressed below.

Claim Rejections - 35 USC § 102

- The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

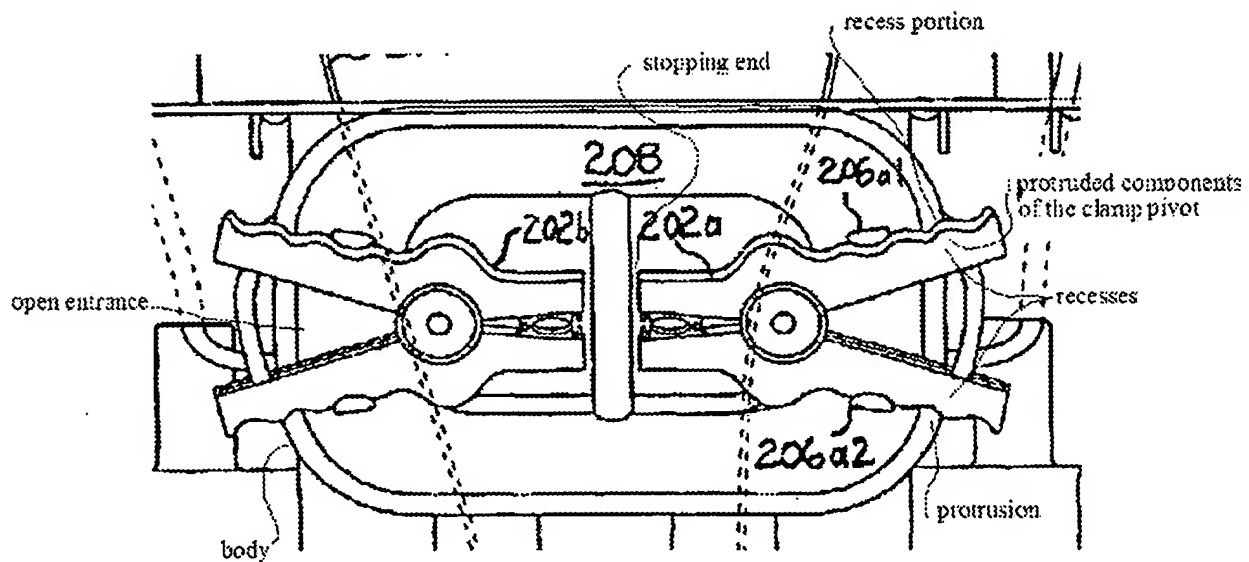
** Claim(s) 1-4 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Krieger et al. (6799993).

-- In reference to Claim(s) 1, Krieger shows (see examiner's figure) and (figure 2 of Krieger) receptacle 208 for a vehicle booster cable with clamp (see examiner's figure), which has a body with an open entrance end (see examiner's figure) and a closed stopping end opposite to the open entrance end, the interior shape of which matches with the exterior shape of the clamp sheath, a radially and inwardly protruded protrusion is provided on opposite sides of the upper portion of the open entrance end respectively, and the protrusions match with the recesses formed on the outer side surface of handgrip portion of the clamp.

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-- In reference to Claim(s) 2, Krieger shows (figure 2) the recess shape of outer side surface of the handgrip portion 206a of the cable clamp substantially appears as the shape of finger's impression.

-- In reference to Claim(s) 3 and 4, Krieger shows (see examiner's figure) at least one side (two sides of; claim 4) of another opposite sides of the upper open entrance end of the body provides a recess portion, which matches with the shape of at least one protruded components of the clamp pivot. The end of the lever is considered a clamp pivot because it is an element of the clamp *that extends from the pivot axis and pivots about the axis* in the same manner as the arrow on a compass is an element of the compass *that extends from the pivot axis and pivots about the axis*.



Claim Rejections - 35 USC § 103

- The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**** Claim(s) 5-7 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Krieger.**

-- In reference to Claim(s) 6, Krieger shows substantially the invention as claimed. However, Krieger is silent as to the material choice of the body and the handgrip of the clamp as being made of plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to choose the material of Krieger to be plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. *In re Leshin*, 125 USPQ 416 (CCPA 1960). One skilled in the art would have been motivated to choose plastic as the material to make the invention of Krieger lighter or to insulate and protect the user from electrical shock.

-- In reference to Claim(s) 5 and 7, Krieger shows the recess portion is substantially in a "U" form. However, Krieger does not show, the protruded portion of the clamp pivot is in a disc form.

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The meaning of “disc form” is not set forth in the claims and is thus deemed to be so broad that it is seen to have little patentable significance because the number of abstract forms that an object may be made into is substantially infinite.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to change the form of Krieger handle into any form including a disc form that is about the size of a quarter on the handle portion of Krieger, since the change in form of any element of prior patent must result in more than useful natural phenomenon that man has accumulate through common knowledge; even though use of new device greatly improves field and provides great utility, and commercial success is enjoyed because of long-felt need, these features cannot sustain patentability where involved is only extended application of obvious attributes from prior art. –Span-Deck Inc. v. Fab-Con, Inc. (CA 8, 1982) 215 USPQ 835. One skilled in the art would have been motivated to change the form of the handle end to a disc in order to be able to use it as tool that functions as a pry-bar or a standard head screwdriver when needed.

Conclusion

Unique Structure not Claimed -- While the structure of a protruded component 32 that substantially surrounds the pivot axis 30 is nested in a “U” formed recess portion 28 on the body 14 and the “U” formed recess portion 28 has an opening adjacent the open entrance 16 on the body 14 was not claimed, the structure was not noted in the prior art search that was completed and pending an updated search, claiming the structure in the independent claim may put the case in condition for allowance.

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Prior Art not used in Rejection - Smith et al. (6756764) teaches (column 4, line 28) and also shows (figure 7) detents 36 (equivalent to applicant's protrusions 20) that rest in the grips 22a (equivalent to applicant's recesses 26). Other prior art cited on the PTO-892 form, but not used in the rejection was cited because it shows the state of the art with respect to applicant's claimed invention.

- Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Harvey whose telephone number is 571-272-2007. The examiner can normally be reached on 8:00 A.M. To 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on 571-272-2800 extension 33.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2800.

- Effective **October 1, 2003**, all patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, **(703) 872-9306**, with a few exceptions. *See Fax Automation in Technology Center 1700, 1237 Off. Gaz. Pat. Office 140* (August 29, 2000). For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James R. Harvey, Examiner

jrh

April 16, 2005

